IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO: 34263 of 1998

Between:

B.K.Murthy, S/o Lingam, R/o. Hyderabad.

... PETITIONER

AND

1 The Labour Court-III, Rep. Presiding Officer.
Hyderabad.
2 The Depot Manager,
APSRTC., Tandur Depot,
Ranga Reddy District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Certiorari and after calling for the records from the 1st Respondent in I.D.No.285/92 and quash the award dated 08/04/1994 in so far as denying the Continuity of Service, Back wages and Attendant benefits as illegal, arbitrary and unjust and consequently direct the Respondents to pay the same.

Counsel for the Petitioner: MR. Y. SUBBA RAO

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2:MR.V.T.M. PRASAD, SC forAPSRTC

The Court made the following:

ORDER: -

This writ petition is filed by the workman aggrieved by the award passed by the Labour Court III, Hyderabad in I.D.No.285 of 1992 dated 08-04-1994 insofar as denying continuity of service, back wages and attendant benefits, while granting reinstatement into service.

2. It is the case of the petitioner that he was appointed as Conductor in the year 1984 and that on 19-06-1986 when he was conducting the bus on route Tandur to Narayanpet, the checking officials exercised a check, in which certain cash and ticket irregularities were found, and therefore, a charge memo was issued. Basing on the charge Memo, a charge sheet dated 27-06-1986 was also issued, to which the petitioner submitted his explanation on 05-08-1986. It is stated that the second respondent without considering the said explanation, appointed an enquiry officer, who conducted a detailed enquiry. It is alleged by the petitioner that the enquiry Officer acted in a biased manner and found the petitioner guilty of the charges. Subsequently basing on the report of the enquiry officer, the second respondent issued a show cause notice dated 17-01-1987 and finally the services of the petitioner were terminated by proceedings dated 03-02-1987. Aggrieved by the same, the petitioner preferred appeal before the competent authority, but the same was also rejected. Therefore, having no other alternative remedy, the petitioner raised an industrial dispute before the Labour Court –III, Hyderabad under
Section 2-A of the Industrial Disputes Act, 1947 (for short 'the Act) and the same was taken up on file as I.D.No.285 of 1992. The Labour Court without properly appreciating the evidence on record though granted the relief of reinstatement into service denied the continuity of service and back wages. According to the petitioner, the charges are not proved. Assuming that even if the charges are proved, they are trivial in nature and the punishment of removal from service was unwarranted. Therefore, the Labour Court ought to have granted the relief of continuity of service and also back wages. Hence, the writ petition.

3. The facts are not in dispute. The Labour Court after appreciating the entire oral and documentary evidence came to the conclusion that the removal from service is an extreme punishment, therefore, the removal order dated 03-02-1987 was set

aside and reinstatement of the petitioner was directed with starting scale of conductor and his past one year service should be treated for future service benefits. The reinstatement order passed by it is based on sympathetic grounds; the question of granting relief of attendant benefits and back wages does not arise.

4. I have heard the learned Counsel on either side and perused the award passed by the Labour Court. At the outset, I am of the opinion the Labour Court has not committed any error of law calling for interference of this Court for granting any further relief. Admittedly, the petitioner was appointed into the service of the Andhra Pradesh State Road Transport Corporation in the year 1984 and he was involved in the present misconduct in the year 1986. Even before that he had suffered more punishments such as, five times censures, forfeiture of the amounts and forfeiture of the deposits. The charges as such are grave in nature. The petitioner having collected the requisite fare from six passengers has not issued tickets to those who boarded at Stage No.8 and Stage No.9.

In fact, the petitioner has closed the ticket issue in the S.R. at stage No.8 itself. Therefore, the explanation offered by the petitioner that though he has collected the amounts he was in the process of issuing tickets was not believed by the disciplinary authority as well as the Labour Court.

The misconduct being grave in nature, the Labour Court ought not to have granted any relief at all. However, the Labour Court found that at the time of check there were 80 passengers including 11 ticketless passengers and found that some mitigating circumstances to impose less punishment that what was imposed by the disciplinary authority, granted the relief of reinstatement afresh. Even the petitioner had not put in vast service, he had only one or two years of service and during that time he was awarded five punishments, apart from the punishment in question. Therefore, I am of the opinion that the Labour Court itself has taken a lenient view exercising its powers under Section 11-A of the Act and it has not committed any error calling for interference of this Court in exercise of the powers under Article 226 of the Constitution of India. The writ petition is devoid of merits.

5. Accordingly, the writ petition is dismissed. No order as to costs.

C. V. RAMULU, J

Dt.08-07-2005

GLV

ASSISTANT REGISTRAR

Copies:

1 The Presiding Officer, Labour Court-III, Hyderabad.
2 The Depot Manager, APSRTC., Tandur Depot,
Ranga Reddy District.

3. Two CCs. to the Government Pleader for Labour,
High Court Buildings, Hyderabad. (OUT)

4. Two CD copies

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